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Analysis

Topic:	Perfection of Security Interest
Sponsor:	Representatives Robertson, Green, Hunter, Dillon, and Hune
Co-Sponsors:	No co-sponsors listed on any of the bills
Committees:	House Banking and Financial Services Senate Banking and Financial Services
Date Introduced:	March 3, 2005
Date Enrolled:	May 12, 2005 (House Bill 4454) Other bills on House floor
Date of Analysis:	May 20, 2005

Position: The Department of Labor & Economic Growth supports the bill.

Problem/Background: Article 9 of the Uniform Commercial Code provides a statutory framework that governs secured transactions (e.g. transactions where credit is granted and secured by personal property). All 50 states, the District of Columbia, and the United States Virgin Islands have adopted the UCC. Michigan adopted Article 9 of the Uniform Commercial Code in 2000 (PA 348 of 2000).

Description of Bill: The bills amend the Michigan Vehicle Code, the Natural Resources and Environmental Protection Act (House Bills 4451 and 4453), the Mobile Home Commission Act, and Article 9 of the Uniform Commercial Code. The purpose of the bills is to make changes in Michigan laws relating to perfecting a security interest in goods covered by a certificate of title. The bills provide that receipt by the Secretary of State of a properly tendered application for a certificate of title on which a security interest is to be indicated is a perfection of that security interest and is equivalent to filing a financing statement under the Uniform Commercial Code. The bill further provides that a perfected security interest has priority over the rights of a lien creditor.

The House approved an amendment to House Bill 4452 repealing a \$1 fee for the Department of State that the department does not collect.

The Senate committee adopted technical amendments to four of the five bills.

Summary of Arguments

Pro: It is important that Michigan's adoption of Article 9 of the Uniform Commercial Code reflect the version adopted in all 49 other states. In promulgating the revised Article 9, the Commission on Uniform State Laws noted that "this Article contemplates that perfection of a security interest in goods covered by a certificate of title occurs upon receipt by appropriate State officials of a properly tendered application for a certificate of title, without a relation back to an earlier time. States whose certificate-of-title statutes provide for perfection at a different time or contain a relation-back provision should amend the statutes accordingly." Michigan failed to do this and should have done so.

The bill provides greater clarity in Michigan law relating to perfection of a security interest by pointing to the Uniform Commercial Code in the respective titling laws.

Con: The bill is unnecessary. No specific testimony was given in committee that Michigan's failure to amend the titling statutes has caused any problems.

Fiscal/Economic Impact

(a) Department

Budgetary: The bills will have no budgetary impact on the department.

Revenue: The bills will have no impact on department revenue.

Comments

(b) State

Budgetary: The bills will have no budgetary impact on the state.

Revenue: The bills will have no impact on state revenue.

Comments

(c) Local Government

Comments

Other State Departments: The bill will also affect the Department of State.

Any Other Pertinent Information: The Michigan Banker's Association supports the bill. There was no opposition in either Senate or House committee.

Administrative Rules Impact: There is no administrative rulemaking authority associated with these bills.